

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Shahab M. Sayeedi	Group Art Unit:	2416
Serial Number:	10/728,052	Examiner:	Raj K. Jain
Filing Date:	December 4, 2003	Confirmation:	8941
Docket Number:	CE11765R		
Title:	Providing and Maintaining Forward Link Packet Data Service in a Mobile Communication System		

PRE-APPEAL BRIEF REQUEST FOR REVIEW

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Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

In response to the Final Office Action dated June 26, 2009, please consider the following remarks. A Notice of Appeal is filed concurrently.

For a listing of the presently pending claims, see Amendment J, filed on March 30, 2009.

Remarks

The Final Office Action dated June 26, 2009, has been carefully considered. Claims 15 through 18, 25 through 27, and 29 through 51 are rejected under 35 U.S.C. §103(a) as obvious in light of U.S. Patents 6,757,270 (“Kumar”) and 5,530,912 (“Agrawal”).

The Applicant respectfully submits that the combination of Kumar and Agrawal does not teach every element of the presently pending claims.

In particular, the mobile station in Kumar sends pilot strength measurement messages, but Kumar’s mobile station does not send an indication that it intends to switch from the current

serving cell to a target cell. The section of Kumar cited against this element of the presently pending claims says instead:

In particular, the mobile transmits a pilot strength measurement message (PSMM), which causes *the primary to transmit a packet data handoff request (PDHOREQ) message* to the new base station being added to the reverse-link active set (i.e., the new secondary base station).

(Kumar, column 15, lines 19 through 23. Emphasis added.) Thus, in Kumar the primary base station sends the handoff request rather than the mobile sending a handoff indication, as in the presently pending claims.

The Final Office Action seems to argue that because, based on the pilot strength measurements sent by the MS, it might be a good idea for the MS to switch, it is obvious that the MS intends to switch. The Applicant respectfully submits that this is not correct, as in the prior art the decision to switch is not made by the MS, but is rather made by the network infrastructure. (See the section of Kumar quoted above.) Thus, the prior-art MS never “intends to switch” and never sends an indication of its intent.

All of the presently pending independent claims include an element wherein the mobile station sends an indication (or, on the other side, wherein the base station receives the indication) that the mobile station intends to switch cells. Specifically, claim 15 states:

receiving an indication that the MS intends to switch . . .

(Claim 42 is an apparatus claim corresponding to claim 15 and contains similar language.) Claim 33 states:

transmitting, by the MS, an indication of an MS intent to switch . . .

(Claim 48 is an apparatus claim corresponding to claim 33 and contains similar language.)

Because the cited art does not teach this element, the Applicant submits that the independent claims, as currently amended, are patentable over the cited art. The pending

dependent claims include by reference all of the limitations of their antecedent independent claims and so are patentable for at least the same reasons as given above.

Conclusion

This application is considered to be in good and proper form for allowance, and the Applicant requests that the Examiner pass this application on to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of this application, the Examiner is invited to call the Applicant's representative at the number given below.

Please charge any fees that may be due to Deposit Account 502117, Motorola, Inc.

Respectfully submitted,

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